

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Eugene Verush
DOCKET NO.: 05-01409.001-R-1
PARCEL NO.: 15-18-332-041

The parties of record before the Property Tax Appeal Board are Eugene Verush, the appellant; and the McHenry County Board of Review.

The subject property consists of a 7,500 square foot riverfront parcel improved with a 45 year-old, one-story style brick and frame dwelling that contains 1,152 square feet of living area. Features of the home include central air-conditioning, one fireplace and a 480 square foot detached garage. The subject is located in Nunda Township, McHenry County.

The appellant submitted evidence to the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this argument, the appellant submitted a letter, along with several exhibits, in which he claimed the subject is located in the Fox River Floodway. Exhibit 1 is a map of the subject's neighborhood depicting numerous riverfront and interior lots. The appellant also submitted his Exhibit 2, which is a copy of the McHenry County Stormwater Management Ordinance. This ordinance specifies rules regarding maintenance, improvement, repair, rebuilding and new construction that is permissible in a floodway area. This ordinance prohibits "construction or placement of any new structures, fill, building additions, buildings on stilts, fencing (including landscaping or planting designed to act as a fence) and storage of materials . . ." The ordinance further restricts repair of damage to existing buildings. Exhibit 3 is an aerial photograph of the subject and several adjacent properties. The appellant claimed the subject flooded in 2004 and also submitted Exhibit 4, which consists of photographs taken in May 2004 that depict standing water near the subject dwelling. The appellant contends these restrictions and the possibility of river flooding have negatively affected the

(Continued on Next Page)

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change in the assessment of the property as established by the McHenry County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	\$	27,308
IMPR.:	\$	33,412
TOTAL:	\$	60,720

Subject only to the State multiplier as applicable.

subject's market value. In further support of his overvaluation argument, the appellant submitted assessment information on four vacant lots located in the floodway. The comparables contain 7,500 square feet of land area and had 2003 land assessments of \$1,814. Finally, the appellant submitted an estimate of the subject's market value from a website called "Zillow.com". From this website, the appellant estimated the subject's market value was approximately \$162,000, prior to making an allowance for the subject's location in a floodway. The appellant submitted no appraisal, comparable sales, or other market evidence in support of his overvaluation contention. Based on this evidence, the appellant requested the subject's total assessment be reduced to \$57,111, its land assessment be reduced to \$25,685 and its improvement assessment be reduced to \$31,426.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$60,720 was disclosed. The subject has an estimated market value of \$182,288 or \$158.24 per square foot of living area including land, as reflected by its assessment and McHenry County's 2005 three-year median level of assessments of 33.31%.

In support of the subject's estimated market value, the board of review submitted various subdivision maps, a letter prepared by the Nunda Township assessor and photographs and a grid analysis of three comparable sales, two of which are located in the subject's subdivision and one which is located in a competing subdivision. The comparables consist of lots ranging in size from 6,645 to 8,327 square feet and are improved with one-story style frame dwellings that range in age from 32 to 50 years and range in size from 1,082 to 1,864 square feet of living area. Features of the comparables include one-car or two-car garages. One comparable has a fireplace. The comparables sold between March 2002 and July 2005 for prices ranging from \$165,000 to \$325,000 or from \$113.20 to \$265.52 per square foot of living area including land. Based on this evidence the board of review requested the subject's total assessment be confirmed.

In rebuttal, the appellant submitted another copy of the McHenry County Stormwater Management Ordinance and copies of the same photographs of the subject showing standing water near the dwelling that were included with his original appeal. In an accompanying letter, the appellant stated none of the comparables submitted by the board of review were located in the floodway and are therefore not comparable to the subject.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Property Tax Appeal Board further finds no reduction in the subject property's

assessment is warranted. The appellant argued overvaluation as a basis of the appeal. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002). After analyzing the market evidence submitted, the Board finds the appellant has failed to overcome this burden.

The Board finds the appellant submitted several letters, documents and photographs in which he detailed his reasons for claiming the subject property has suffered a loss in market value due to its location in a floodway. However, the appellant failed to submit an appraisal, comparable sales or other market evidence to support his argument. Section 1910.65(c) of the Official Rules of the Property Tax Appeal Board states:

Proof of the market value of the subject property may consist of the following:

- 1) an appraisal of the subject property as of the assessment date at issue;
- 2) a recent sale of the subject property;
- 3) documentation evidencing the cost of construction of the subject property including the cost of land and the value of any labor provided by the owner if the date of construction is proximate to the assessment date; or
- 4) documentation of not fewer than three recent sales of suggested comparable properties together with documentation of the similarity, proximity and lack of distinguishing characteristics of the sales comparables to the subject property.

The Board finds the appellant did not comply with the Board's rule 1910.65 by submitting market evidence sufficient to meet his burden of proof. The Board gave no weight to the vacant lot assessments submitted by the appellant because they are not improved properties like the subject and do not constitute evidence of market value. The Board finds the board of review submitted three comparable improved properties that sold for prices ranging from \$165,000 to \$325,000 or from \$113.20 to \$265.52 per square foot of living area including land. The subject's estimated market value of \$158.24 per square foot of living area including land falls within this range. In his rebuttal, the appellant claimed the board of review's comparables were not in the floodway. This claim does not absolve the appellant of his burden of proof requiring that he demonstrate

DOCKET NO.: 05-01409.001-R-1

the subject's market value with sufficient documentary evidence as detailed in the Property Tax Appeal Board's Rule 1910.65.

In conclusion, the Board finds the appellant has failed to demonstrate overvaluation by a preponderance of the evidence. Therefore, the Board finds the subject property's assessment as established by the board of review is correct and no reduction is warranted.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.



Chairman



Member



Member

Member

Member

DISSENTING: _____

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: February 29, 2008



Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the

session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.